

## REMARKS

Applicants respectfully request reconsideration of this application as amended. Claims 1, 17 and 24 have been amended. Claims 3-4, 6, 8-16, 20, 22, 27 and 29 were previously cancelled without prejudice. No new claims have been added. Therefore, claims 1-2, 5, 7, 17-19, 21, 23-25, 28 and 30 are presented for examination.

### 35 U.S.C. § 102 Rejection

Claims 1-2, 5, 7, 17-19, 21, 23-25, 28 and 30 are rejected under 35 U.S.C. § 102(e) as being anticipated by Lim, et al., U.S. Patent No. 6,795,966 (“Lim”).

Claim 1, as amended, recites:

A method, comprising:  
gathering information relating to a processor;  
evaluating the information relating to the processor; and  
managing a first virtual machine and a second virtual machine via the information, the managing of the first and second virtual machines including managing a predetermined processing time allocated to each of the first virtual machine and the second virtual machine, the managing further including extending or suspending the predetermined processing time allocated to the first virtual machine and the second virtual machine, wherein the suspending of the predetermined processing time includes switching tasks being performed on the first virtual machine to the second virtual machine, wherein the predetermined processing time is allocated by a central processing unit to perform the tasks.  
(emphasis added).

As an initial matter, Applicants respectfully disagree with the Examiner’s characterization of the reference and the pending claims. For example, not only Lim does not teach or reasonably all the features of claim 1, but also the Examiner does not address the feature of “expanding [the predetermined processing time]” as recited by claim 1 (emphasis added). See Office Action, mailed 11-26-07, page 3. Col. 7, lines 7-14, as referenced by the Examiner, merely discloses “[t]he invention allows the use of a

plurality of virtual machines. In this case, one of the virtual machines may serve as a source virtual machine, for which at least one checkpoint is generated, and the *checkpointing mechanism* is then further provided for loading into at least one secondary virtual machine, which is different from the source virtual machine, the total state of the source virtual machine corresponding to one of the generated checkpoints.” (col. 7, lines 7-14; emphasis added). Nowhere in this section or anywhere else in Lim the features of claim 1 are taught or reasonably suggested.

Applicants respectfully remind the Examiner that anticipation under 35 U.S.C. Section 102 *requires every element of the claimed invention be identically shown in a single prior art reference*. The Federal Circuit has indicated that the standard for measuring lack of novelty by anticipation is strict identity. “For a prior art reference to anticipate in terms of 35 U.S.C. Section 102, *every element of the claimed invention must be identically shown in a single reference*.” *In Re Bond*, 910 F.2d 831, 15 USPQ.2d 1566 (Fed. Cir. 1990); emphasis provided. Applicants submit that Lim fails to identically show *every element* of claim 1. Since Lim fails to show *every element* of claim 1, Lim fails anticipate claim 1.

Nevertheless, for the sake of expediting issuance of this case, Applicants propose additional amendments to the pending claims and submit the following remarks.

Lim discloses a “computer system is interrupted, and its entire state information is extracted as one or more checkpoints at one or more respective points during operation of the system. The checkpoint may be restored into the system at any later time, even multiple times, and it may also even be loaded into one or more other systems; all systems loaded with the same checkpoint will then execute from the same checkpointed state. The state extraction mechanism is preferably a virtual machine monitor, on which

one or more virtual machines are installed, each virtual machine constituting an encapsulated, virtualized computer system whose states can be checkpointed under control of the virtual machine monitor. Checkpoints may be stored on a portable memory device or transmitted as a batch or dynamically over a network so that even virtual machines installed at different sites may execute from the same state.” (Abstract).

In contrast, claim 1, as amended, in pertinent part, recites “the managing of the first and second virtual machines including managing a predetermined processing time allocated to each of the first virtual machine and the second virtual machine, the managing further including extending or suspending the predetermined processing time allocated to the first virtual machine and the second virtual machine, wherein the suspending of the predetermined processing time includes switching tasks being performed on the first virtual machine to the second virtual machine”. (emphasis added).

Lim does not teach or reasonably suggest at least these features of claim 1. Accordingly, Applicants respectfully request the withdrawal of the rejection of claim 1 and its dependent claims.

Claims 17 and 24 contain limitations similar to those of claim 1. Applicants respectfully request the withdrawal of the rejection of claims 17 and 24 and their dependent claims.

### **Conclusion**

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

### **Invitation for a Telephone Interview**

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

### **Request for an Extension of Time**

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

### **Charge our Deposit Account**

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

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